

REMARKS

Applicant submits this Reply to the Office Action mailed April 18, 2007. By this Reply, Applicant has canceled claims 1-10 and added new claims 11-25. Accordingly, claims 11-25 are pending in this application.

In the Office Action, claims 1-5 and 9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action stated that “[i]n claim 1, lines 1-2, the ‘in particular’ phrase is indefinite as it is not clear what is being positively claimed.” Office Action at 2. The Office Action also indicated that the “at least one” phrase in the claim 9 preamble was unclear. Applicant has canceled claims 1 and 9. New claim 11, which includes subject matter from canceled claim 1, and new claim 21, which includes subject matter from canceled claim 9 do not contain the phrases the Examiner found indefinite. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 112, second paragraph (indefiniteness), rejection.

In the Office Action, claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,476,326 to Rado et al. (“Rado”); claims 6-9 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,581,798 to Yamamoto (“Yamamoto”); claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto in view of EP 0 335 925 to Baltensperger et al. (EP ‘925); claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rado in view of EP ‘925; and claim 3 was rejected under 35 U.S.C. § 103(a) as being

unpatentable over Rado in view of U.S. Patent No. 4,583,455 to Salete-Garces ("Salete-Garces"). Applicant respectfully traverses these rejections for the reasons provided below.

Rado fails to anticipate independent claim 11, which contains subject matter of canceled claim 1, because Rado does not disclose each and every element of claim 11. To anticipate a claim, the reference must disclose each and every element of the claim. MPEP § 2131. Applicant respectfully submits that Rado fails to disclose each and every element of independent claim 11. For example, claim 11 recites: "A process for husking and/or seeding grains, including: dry cleaning the grains; and seeding the grains immediately thereafter." Rado discloses "the maize pretreated for a short time (that is less than one hour), by moistening and, optionally, by heating, is initially subjected to a decorativeating step so as to strip it of the perisperm membrane, and subsequently to a degermoring step . . ." Rado, col. 1, ll. 52-56. Rado adds that the "pretreatment can take place, for example, by washing, soaking and rest, or by conditioning (treatment with heat and moistening)." Rado, col. 1, ll. 58-60. In other words, whereas claim 11 recites "dry cleaning the grains; and seeding the grains immediately thereafter," Rado discloses pre-treating by washing, soaking and rest, or by conditioning (treatment with heat and moistening) before degermoring (seeding). Furthermore, Rado discloses a decorativeating step before the degermoring step and hence cannot disclose or suggest seeding the grains immediately after dry cleaning as required by claim 11. Accordingly, Rado does not anticipate claim 11 and its dependent claims.

Regarding the 35 U.S.C. § 102(b) rejection of claims 6-9 as being anticipated by Yamamoto, Yamamoto does not disclose each and every element of claims 6-9 and

thus cannot anticipate the claims. Independent claim 17, which includes subject matter from canceled claim 6, recites, among other things, “wherein the rotor includes a hollow shaft enclosed in a region of the processing zone by a roller and wherein the roller has a plurality of projections.” Yamamoto discloses “a rice-cleaning roller of a grinding type.” Yamamoto, col. 1, ll. 7-8, Fig. 12. Yamamoto does not disclose, among other elements, “wherein the rotor includes a hollow shaft enclosed in a region of the processing zone by a roller and wherein the roller has a plurality of projections.” Indeed, the apparatus disclosed in Yamamoto cannot be used to seed grain and Yamamoto specifically discloses that the apparatus is for rice-cleaning. Applicant notes that one of ordinary skill in the art would recognize that rice cannot be seeded and a device for cleaning rice by grinding cannot be used to seed grain. Accordingly, Applicant respectfully requests withdrawal of the Section 102(b) rejection.

With respect to the rejection of claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto in view of EP '925, Applicant submits that no *prima facie* case of obviousness has been established. To establish a *prima facie* case of obviousness, *inter alia*, the applied reference(s) must teach or suggest each and every element recited in the claims. See MPEP § 2143.03. Here, no *prima facie* case of obviousness has been established for at least the reason that Yamamoto and EP '925, either alone or in combination, do not disclose or suggest each and every element of claims 22 and 23, which include subject matter of canceled claim 10. As noted above, Yamamoto fails to disclose or suggest independent claim 17, from which claims 22 and 23 depend, because it does not teach or suggest the claimed rotor and roller, and because one of ordinary skill in the art would recognize that rice cannot be seeded and

a device for cleaning rice by grinding cannot be used to seed grain and thus would not be motivated to make the modifications proposed by the Examiner.

EP '925 does not remedy this deficiency, nor does the Office Action contend otherwise. Instead, the Office Action relies on EP '925 for allegedly disclosing "process and apparatus including the use of an aspirator/ventilator." Office Action at page 3. Even assuming this allegation is correct, which Applicant does not concede, the above recitation does not constitute a disclosure or suggestion of "wherein the rotor includes a hollow shaft enclosed in a region of the processing zone by a roller and wherein the roller has a plurality of projections," as recited in claim 18. Thus, Yamamoto and EP '925, either alone or in combination, fail to disclose or suggest each and every element recited in independent claim 18. For at least this reason, no *prima facie* case of obviousness has been established. Claims 23 and 24 depend from claim 18 and each is therefore allowable for at least the same reasons that claim 18 is allowable.

Regarding the rejection of claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Rado in view of EP '925, the Rado and EP '925 references, either alone or in combination, fail to disclose each and every element of claim 14, which includes the subject matters of canceled claim 4, and claim 15, which includes subject matter of canceled claim 5. As noted above in connection with claim 11, Rado discloses pre-treating by washing, soaking and rest, or by conditioning (treatment with heat and moistening) before degerminating (seeding) and further discloses a decorativeating step before the degerminating step. Rado thus cannot disclose or suggest "dry cleaning the grains; and seeding the grains immediately thereafter," as recited in independent claim 11 from which claims 14 and 15 depend.

EP '925 does not cure this shortcoming, nor does the Office Action contend otherwise. Instead, the Office Action relies on EP '925 for allegedly disclosing "process and apparatus including the use of an aspirator/ventilator." Office Action at page 3. Even assuming this allegation is correct, which Applicant does not concede, the above recitation does not constitute a teaching or suggestion of "cleaning the grains; and seeding the grains immediately thereafter," as recited in independent claim 11. Thus, Rado and EP '925, either alone or in combination, fail to disclose or suggest each and every element recited in independent claim 11. For at least this reason, no *prima facie* case of obviousness has been established. Claims 16 and 17 depend from claim 11 and each is therefore allowable for at least the same reasons that claim 11 is allowable.

Concerning the rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Rado in view of Salete-Garces, Applicant submits that no *prima facie* case of obviousness has been established for at least the reason that Rado and Salete-Garces, either alone or in combination, fail to disclose or suggest each and every element of claim 12, which includes subject matter of canceled claim 3. As noted above in connection with claim 11, Rado discloses pretreating before degenerating and does not disclose or suggest "cleaning the grains; and seeding the grains immediately thereafter," as recited in independent claim 11 from which claim 14 depends.

Salete-Garces does not remedy this deficiency, nor does the Office Action contend otherwise. Instead, the Office Action relies on Salete-Garces for allegedly disclosing "similar process including the use of projections on a rotor." Office Action at page 3. Even assuming this allegation is correct, which Applicant does not concede, the above recitation does not constitute a teaching or suggestion of "cleaning the grains;

and seeding the grains immediately thereafter," as recited in independent claim 11. Thus, Rado and Salete-Garces, either alone or in combination, fail to disclose or suggest each and every element recited in independent claim 11. For at least this reason, no *prima facie* case of obviousness has been established. Claim 14 depends from claim 11 and is therefore allowable for at least the same reasons that claim 11 is allowable.

Applicants further submit that new independent claim 16 is allowable over the cited references. For example, claims 16 recites: "A process for husking and/or seeding grains, including: cleaning the grains by surface wetting; and seeding the grains immediately thereafter." As noted above in connection with claim 11, Rado discloses a decorativeating step before the degerminating step. That is, Rado does not disclose or suggest seeding the grains immediately after cleaning by surface wetting as provided for in independent claim 16. Claim 16 is therefore allowable over Rado.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

In view of the foregoing remarks, Applicant submits that this claimed invention as defined by pending claims 11-25 is not anticipated nor rendered obvious by the prior art

references cited against this application. Applicant therefore requests the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

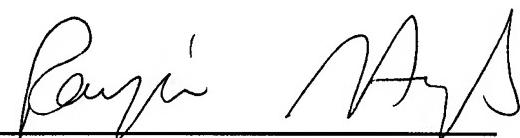
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 20, 2007

By: _____


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